

A C T O F C O N G R E S S .

recovered in, but shall have and be paid by the assignees so much money as the commissioners shall think fit to allow, not more than three hundred dollars, nor exceeding three per centum on the net proceeds of the said bankrupt's estate.

A certificate of discharge made necessary, &c.

Sec. 36. *Provided also, and be it further enacted,* That no person becoming a bankrupt according to the intent and provisions of this act, shall be entitled to a certificate of discharge, or to any of the benefits of the act, unless the commissioners shall certify under their hands, to the judge of the district within which such commission issues, that such bankrupt hath made a full discovery of his or her estate and effects, and in all things conformed him or herself to the directions of this act, and that there doth not appear to them any reason to doubt of the truth of such discovery, or that the same was not a full discovery of the said bankrupt's estate and effects; or unless the said judge should be of opinion that the said certificate was unreasonably denied by the commissioners; and unless two thirds, in number and in value, of the creditors of the bankrupt, who shall be creditors for not less than fifty dollars respectively, and who shall have duly proved their debts under the said commission, shall sign such certificate to the judge, and testify their consent to the allowance of a certificate of discharge, in pursuance of this act; which signing and consent shall be also certified by the commissioners; but the said commissioners shall not certify the same till they have proof by affidavit or affirmation, in writing, of such creditors, or of the persons respectively authorized for that purpose, signing the said certificate; which affidavit or affirmation, together with the letter or power of attorney to sign, shall be laid before the judge of the district within which such commission issues, in order for the allowing the certificate of discharge, and the said certificate shall not be allowed unless the bankrupt make oath or affirmation, in writing, that the certificate of the commissioners, and consent of the creditors thereunto, were obtained fairly and without fraud; and any of the creditors of the said bankrupt are allowed to be heard, if they shall think fit, before the respective persons aforesaid, against the making or allowing of such certificates by the commissioners or judge.

For what misconduct the bankrupt shall lose his right to a certificate, &c.

Sec. 37. *And be it further enacted,* That if any creditor, or pretended creditor, of any bankrupt, shall exhibit to the commissioners any fictitious or false debt, or demand, with intent to defraud the real creditors of such bankrupt, and the bankrupt shall refuse to make discovery thereof, and suffer the said creditors to be imposed upon, he shall lose all title to the allowance upon the amount of his effects, and to a certificate of discharge as aforesaid, nor shall he be entitled to the said allowance or certificate, if he has lost, at any one time fifty dollars, or in the whole three hundred dollars, after the passing of this act, and within twelve months before he became a bankrupt, by any manner of gaming or wagering whatever.

Bankrupt, if arrested, may be discharged, &c.

Sec. 38. *And be it further enacted,* That if any bankrupt, who shall have obtained his certificate, shall be taken in execution or detained in prison, on account of any debts owing before he became a bankrupt, by reason that judgment was obtained before such certificate was allowed, it shall be lawful for any of the judges of the court wherein judgment was so obtained, or for any court, judge, or justice, within the district in which such bankrupt shall be detained, having powers to award or allow the writ of *habeas corpus*, on such bankrupt producing his certificate so as aforesaid allowed, to order any sheriff or gaoler who shall have such bankrupt in custody, to discharge such bankrupt without fee or charge, first giving reasonable notice to the plaintiff or his attorney, of the motion for such discharge.

Persons whose debts are due at a future day may prove them.

Sec. 39. *And be it further enacted,* That every person who shall have *bonâ fide* given credit to or taken securities, payable at future days, from persons who are or shall become bankrupts, not due at the time of such person's becoming bankrupt, shall be admitted to prove their debts and contracts, as if they were payable presently, and shall have a dividend in proportion to the other creditors, discounting, where no interest is payable, at the rate of so much per centum per annum, as is equal to the lawful interest of the state where the debt was payable; and the obligee of any bottomry or respondentia bond, and the assured in any policy of insurance, shall be admitted to claim, and after the contingency or loss, to prove the debt thereon, in like manner as if the same had happened before issuing the commission; and the bankrupt shall be discharged from such securities, as if such money had been due and payable before the time of his or her becoming bankrupt; and such creditors may petition for a commission, or join in petitioning.

Proceedings on an *habeas corpus*, &c.

Sec. 40. *And be it further enacted,* That in case any person, committed by the commissioners warrant, shall obtain a *habeas corpus*, in order to be discharged, and there shall appear any insufficiency in the form of the warrant, it shall be lawful for the court or judge before whom such party shall be brought